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When Hearsay Is Admissible

Marcia B. Driggers and Douglas
R. Driggers have joined with
William Byron Darden and John
A. Darden III under the new
name of Darden and Driggers,
P.C., 200 West Las Cruces
Avenue, Las Cruces, New Mexico
88004; Phone: 526-6655.

Felker, McFeeley and Ish, P.A.
are proud to announce that
effective October 1, 1983, Mark
B. McFeeley has withdrawn
from the firm to become full
time United States Bankruptcy
Judge, that Randolph B. Felker
and Mark L. Ish will continue
to practice under the name of
Felker and Ish, P.A. and that
Scott P. Hatcher has become
associated with the firm.

Antonio V. Silva, formerly
Exec. Director of Southern
New Mexico Legal Services,
is pleased to announce that he
has joined the law firm of Rallis,
Silva & Velarde, P.C., 1002
Magoffin, El Paso, Texas 79901:
Phone: (915) 544-0889. The
firm operates a general practice
in Arizona, New Mexico and
Texas.

Memorium

Carlsbad attorney Charles A. Feezer,
member of the State Bar of New
Mexico since 1951, passed away
suddenly in Carlsbad on October 8,
1983. Mr. Feezer was a member of
the Fine Arts Committee of the
Carlsbad Museum and was instru-
mental in bringing fine art to the
City of Carlsbad. A fund is being
established in Mr. Feezer's memory,
and a non-profit, independent
organization, the Carlsbad Foun-
dation, will match dollar for dollar
(for the first \$20,000) any
contribution to this fund. Anyone
wishing to contribute to this fund
in Mr. Feezer's memory should
send his or her contribution to:
Carlsbad Foundation, 405 W. Green
Street, Carlsbad, New Mexico
88220.

Disciplinary Action

An attorney was consulted by two
businessmen, one of whom wished
to borrow \$30,000.00 and the
other of whom was willing to lend
that sum for a two month period
at interest of \$6,000.00. The
attorney informed the two gentle-
men that such a loan was illegal
under the usury laws. The gentle-
men insisted that not withstanding
the illegality of the loan, they
wished to go through with the
transaction and also wished to have
a note evidencing the debt.
Pursuant to the clients' instructions,
the attorney drafted the note to
indicate a loan of \$33,600.00 with
an interest charge of \$2,400.00
When the lender attempted to
collect his money, the borrower
refused to pay. The lender then

sued the borrower, and a defense
of usury was upheld. The attorney
testified at the trial and openly
acknowledged the above facts.

The matter was then brought to the
Disciplinary Board's attention.

The Board concluded that the
major purpose for drafting a
promissory note which falsely
stated the actual terms of the trans-
action was to create a basis for a
lawsuit in the future if the borrower
failed to repay the loan.

Such conduct violated Disciplinary
Rule 7-102 (A) (6), which pro-
hibits an attorney from participating
in the creation of evidence when
he knows the evidence is false. In
addition, the conduct violated
Disciplinary Rule 7-102 (A) (7)
which prohibits an attorney from
assisting a client in conduct the
lawyer knows to be illegal or
fraudulent. Section 58-8-11 N.M.
S.A. (1978 Comp.) prohibits the
rate of interest in that transaction.
Thus the attorney engaged in illegal
conduct involving moral turpitude
in violation of Disciplinary Rule
1-102 (A) (3). The Disciplinary
Board took into consideration that
the attorney was totally forthright
and candid both to the Disciplinary
Board and the Court. The
attorney was offered an informal
admonition on condition that he
acknowledge in writing that his
conduct violated the above cited
disciplinary rules.

The attorney accepted the offer
and was informally admonished
pursuant to Rule 8(b) (3) (iii) of
the Supreme Court Rules Governing
Discipline and Rule 9 of the
Supreme Court Disciplinary Board
Rules of Procedure.

□

Wellborn

(continued from page 1)

Sarah Singleton, Chairman of
the Board, has kept us up to
date and received input from
us. And as I indicated, we will
also have a Commissioner on that
Board," Wellborn continued.

"In response to the needs of
younger lawyers," Wellborn said,
"the Bill Kitts Society was formed
(continued on page 3)